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7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010-515**

12 **LOYE ANN OLKER**
13 **620 N. Fair Street**
14 **Petaluma, CA 94952**
15 **Registered Nurse License No. 186779**
16 **Public Health Nurse Certificate No. PHN 12621**

A C C U S A T I O N

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about February 29, 1968, the Board of Registered Nursing issued Registered
23 Nurse License Number 186779 to Loye Ann Olker (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 December 31, 2011, unless renewed.

26 3. On or about May 3, 1968, the Board of Registered Nursing issued Public Health
27 Nurse License Number PHN 12621 to Loye Ann Olker (Respondent). The Public Health Nurse
28

1 Certificate was in full force and effect at all times relevant to the charges brought herein and will
2 expire on December 31, 2011, unless renewed.

3 JURISDICTION

4 4. This Accusation is brought before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
9 that the Board may discipline any licensee, including a licensee holding a temporary or an
10 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
11 Nursing Practice Act.

12 6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
13 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
14 licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the
15 Code, the Board may renew an expired license at any time within eight years after the expiration.

16 7. Section 2761 of the Code states, in pertinent part:

17 "The board may take disciplinary action against a certified or licensed nurse or deny an
18 application for a certificate or license for any of the following:

19 ...

20 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
21 functions, and duties of a registered nurse, in which event the record of the conviction shall be
22 conclusive evidence thereof.

23 8. Section 2762 of the Code states, in pertinent part:

24 "In addition to other acts constituting unprofessional conduct within the meaning of this
25 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
26 chapter to do any of the following:

27 ...

28 / / /

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11. California Code of Regulations, title 16, section 1444, provides, in pertinent part that a conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

12. Respondent is subject to disciplinary action under Code sections 490 and 2761(f) in that she was convicted of a crime substantially related to the practice of registered nursing. The circumstances are as follows:

1 13. On or about October 24, 2005, in Sonoma County Superior Court case number SCR-
2 468630, Respondent plead guilty to a violation of Vehicle Code section 23152(b) (Driving while
3 having a blood alcohol of .08% or higher), with the added violation of Vehicle Code section
4 23538(b)(2) (referral to first offender program if blood alcohol is over .20%). Though the charge
5 of a violation of Vehicle Code section 20002(a) (Hit and Run, property damage only) was
6 dismissed, the court was able to consider this charge in sentencing Respondent pursuant to a
7 "Harvey Waiver" (People v. Harvey (1979) 25 Cal. 3d 754).

8 SECOND CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct - Conviction Alcohol Related)

10 14. Respondent is subject to disciplinary action under Code section 2762(c) in that she
11 was convicted of a criminal offense involving the consumption or self-administration of alcoholic
12 beverages to an extent or in a manner dangerous to herself, another person, or the public or to the
13 extent that such use impairs her ability to practice registered nursing safely. The circumstances
14 are set forth in paragraph 13 above.

15 THIRD CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct)

17 15. Respondent is subject to disciplinary action under Code section 2762(b) in that she
18 used alcohol to an extent or in a manner dangerous or injurious to herself, another person or the
19 public, or to the extent its use impairs her ability to practice registered nursing safely. The
20 circumstances are set forth in paragraph 13 above.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:

24 1. Revoking or suspending Registered Nurse License Number 186779, issued to Loye
25 Ann Olker.

26 2. Revoking or suspending Public Health Nurse Certificate Number PHN 12621, issued
27 to Loye Ann Olker.

28 / / /

1 3. Ordering Loye Ann Olker to pay the Board of Registered Nursing the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3;

4 4. Taking such other and further action as deemed necessary and proper.
5
6

7
8 DATED: _____

4/20/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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